

On motion of Mr. Taylor of Fannin, a call of the Senate was ordered.

Absent : Messrs. Fall, Lott, Martin and Russell.

On motion of Mr. Potter, a bill for the relief of the heirs of Jefferson Smith was taken up and read second time.

On motion of Mr. Potter, the bill was amended by adding :
 "Provided said Smith nor his heirs have ever received land as a headright."

The bill was then ordered to be engrossed.

The rule was suspended, bill read a third time and passed.

Mr. Burroughs from the committee on Enrolled Bills, reported the following bills correctly enrolled, properly signed and this day presented to the Governor:

A joint resolution recognizing the rank of P. W. Humphreys, as a commander in the late Navy of Texas at the time of annexation ;

A bill to incorporate the Tennessee Colony Masonic Institute ;

A bill to authorize the County Courts to regulate roads, appoint overseers, &c., &c.;

A bill to amend the second section of an act to incorporate the Eastern Texas and Red River Insurance company ; and

A bill providing the manner in which the fund set aside for the improvement of Buffalo Bayou shall be expended.

By leave, Mr. Stockdale introduced a bill to amend an act to incorporate the Memphis, El Paso and Pacific Railroad company, and the act supplemental thereto ; read first time.

On motion of Mr. Stockdale, the rule was suspended, and bill read second time.

Mr. Herbert moved the reference of the bill to the committee on Internal Improvements ; lost.

The bill was then ordered to be engrossed.

On motion of Mr. Russell, the Senate adjourned until Monday morning, 10 o'clock.

MONDAY, February 8th, 1858.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The journal of Saturday was read and adopted.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported the following bills correctly engrossed :

A bill for the relief of the heirs of John Gay, deceased.

A bill for the relief of the heirs of Jefferson Smith; and
 A bill for the support of the Penitentiary for the years
 1858 and 1859.

Mr. Stockdale made the following reports:

The committee on the Judiciary have considered a House bill authorizing Wm. M. Spalding to bring suit against the State in the District Court of Liberty county, and a majority of the committee instruct me to recommend its passage.

The committee of Free Conference to which was referred a bill supplemental to and amendatory of an act to adopt and establish a penal code for the State of Texas, approved August, 28, 1856, together with the amendments of the House, have considered the same, and instruct us to report the bill back to the two Houses, as amended by the committee, and recommend its passage.

[Signed]

F. S. STOCKDALE,
 for Senate Committee.

THOS. J. JENNINGS,
 for House Committee.

On motion of Mr. Guinn, the rule was suspended, report taken up, read and adopted.

On motion of Mr. Wigfall, a bill to amend an act to incorporate the Memphis, El Paso and Pacific Railroad Company and the act supplemental thereto, was taken up, read a third time, and passed by the following vote;

YEAS—Messrs. Britton, Burroughs, Caldwell, Fall, Guinn, Hyde, Martin, Maverick, Paschal, Pirkey, Scarborough, Shepard, Stockdale, Tankersly, Taylor, of Fannin, Throckmorton, Truitt and Wigfall—18.

NAYS—Messrs. Graham, Grimes, Herbert, Lott, Russell, Taylor, of Cass, and Whaley—7.

Mr. Martin moved a reconsideration of the vote just taken.

On motion of Mr. Throckmorton, the previous question was ordered by the following vote:

YEAS—Messrs. Britton, Caldwell, Erath, Fall, Grimes, Guinn, Hyde, Lott, Paschal, Pirkey, Russell, Scarborough, Shepard, Stockdale, Tankersly, Taylor of Fannin, Throckmorton, Truitt, Whaley and Wigfall—20.

NAYS—Messrs. Burroughs, Graham, McCulloch, Martin, Maverick, Taylor of Cass, and Walker—7.

The motion to reconsider was then put and lost.

By leave, Mr. Pirkey withdrew his motion to reconsider the

vote passing a bill to encourage the construction of a main trunk railroad of the first class from the longitude of Fort Graham west to a point on the Rio Grande, at or near El Paso.

On motion of Mr. Tankersly, a bill supplemental to an act to incorporate the Sabine and Rio Grande Railroad Company, approved February 6th, 1854, with the report of the committee on Internal Improvements, offering amendments thereto, was taken up, read, amendments adopted and bill ordered to be engrossed.

Rule suspended, bill read a third time and passed by the following vote:

YEAS—Messrs. Britton, Burroughs, Caldwell, Fall, Graham, Guinn, Hyde, McCulloch, Maverick, Paschal, Pirkey, Scarborough, Shepard, Stockdale, Tankersly, Taylor, of Fannin, Throckmorton, Truitt, Whaley and Wigfall—20.

NAYS—Messrs. Grimes, Russell, and Taylor, of Cass—3.

Mr. Guinn offered the following resolution, which was adopted:

Resolved, That the Secretary of the Senate be authorized to employ one clerk to assist the enrolling clerk of the Senate, so long as necessary; provided, his pay shall not exceed five dollars per day.

Mr. Britton introduced a bill to relinquish to Catherine R. S. Jones all the right and title the State has to the escheated property of David Williams, deceased; read first and second times and referred to the committee on the Judiciary.

ORDERS OF THE DAY.

The joint resolutions relative to the arrest of Gen. Wm. Walker, by Commodore Paulding, with the report of the majority of the Select Committee, offering an amendment thereto, was read and amendment adopted.

Mr. Throckmorton moved the previous question. Carried.

On motion of Mr. Taylor, of Cass, the question was divided by taking the vote, first upon the engrossment of the preamble and first resolution, which was ordered to be engrossed by the following vote:

YEAS—Messrs. Britton, Graham, Herbert, Lott, McCulloch, Martin, Pedigo, Pirkey, Russell, Shepard, Stockdale, Tankersly, Taylor of Cass, Truitt, Walker and Whaley—16.

NAYS—Messrs. Burroughs, Caldwell, Erath, Fall, Grimes,

Guinn, Hyde, Maverick, Paschal, Scarborough, Taylor, of Fannin, Throckmorton and Wigfall—13

Upon the engrossment of the second resolution the yeas and nays stood thus :

YEAS—Messrs. Graham, Lott, McCulloch, Pedigo, Pirkey, Russell, Shepard, Stockdale, Taylor of Cass, Truitt, Walker and Whaley—12.

NAYS—Messrs. Britton, Burroughs, Caldwell, Erath, Fall, Grimes, Guinn, Hyde, Martin, Maverick, Paschal, Scarborough, Tankersly, Taylor, of Fannin, Throckmorton and Wigfall—16.

So the Senate refused to engross the second resolution.

Mr. McCulloch moved a suspension of the rule in order to place the resolutions upon their third and final reading Lost.

A bill to relinquish the State tax for the years 1858 and 1859 to certain counties, &c., was read a third time and passed by the following vote :

YEAS—Messrs. Britton, Caldwell, Fall, Hyde, McCulloch, Martin, Maverick, Pedigo, Pirkey, Russell, Scarborough, Shepard, Stockdale, Tankersly, Taylor of Cass, Throckmorton, Truitt, Walker and Wigfall—19.

NAYS—Messrs. Grimes, Guinn, Lott and Paschal—4.

On motion of Mr. Grimes, a bill for the relief of John W Hayden was taken up and ordered to be engrossed.

Rule suspended, bill read a third time and passed.

On motion of Mr. Paschal, the joint resolution proposing to call a convention, to re-model the State constitution, was taken from the table and read.

Mr. Stockdale offered a joint resolution proposing an amendment to the constitution, as a substitute.

Mr. Burroughs moved the indefinite postponement of the joint resolution and substitute.

Mr. Russell moved the previous question on that motion.

On motion of Mr. Paschal a call of the Senate was ordered.

Absent : Messrs. Pedigo, Pirkey, Taylor, of Cass, Walker and Wigfall.

On motion of Mr. McCulloch, a bill for the relief of Frederick Hemiger's heirs, with the report of the committee on Public Lands, recommending its indefinite postponement, was taken up, read and the report laid on the table.

On motion of Mr. McCulloch the bill was amended by adding :

"Provided there has been no patent issued on either of two certificates which seem to have been issued by the Board of Land Commissioners for Bastrop county, one to Thomas H. Mays, administrator of Frederick Hemiger, deceased, and the other to the heirs of Frederick Hemiger, deceased, for one league and labor each ; and further provided, the certificate issued under the provisions of this act shall cancel, liquidate and take the place of both the certificates above described.

The bill was then passed to a third reading.

Rule suspended, bill read a third time and passed.

On motion of Mr. Paschal, the call of the Senate was suspended, and the motion to indefinitely postpone the joint resolution to call a convention, and the substitute prevailed by the following vote :

YEAS.—Messrs. Britton, Burroughs, Erath, Fall, Graham, Grimes, Guinn, Herbert, Hyde, Martin, Maverick, Pirkey, Russell, Taylor of Cass, Throckmorton, Truitt, Walker and Whaley—15.

NAYS.—Messrs. Caldwell, Lott, McCulloch, Paschal, Scarborough, Shepard, Stockdale, Tankersly and Wigfall—9.

On motion of Mr. Paschal, the several joint resolutions proposing an amendment to the constitution, so as to allow banking, were taken up and read.

On motion of Mr. Guinn, the joint resolutions were indefinitely postponed by the following vote :

YEAS.—Messrs. Britton, Burroughs, Fall, Grimes, Guinn, Hyde, Martin, Maverick, Russell, Scarborough, Shepard, Throckmorton, Walker, and Whaley—14.

NAYS.—Messrs. Caldwell, Erath, Graham, Herbert, Lott, McCulloch, Paschal, Pirkey, Stockdale, Tankersly, Taylor of Fannin, Truitt and Wigfall—13.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported,

A bill to encourage the construction of a main trunk railroad of the first class, from the meridian of longitude of Fort Graham, west to the Rio Grande, at or near El Paso—properly engrossed.

Mr. Erath, by leave, introduced a bill for the relief of Isaac Foster ; read first and second times and referred to the committee on Private Land Claims.

Mr. Taylor, of Fannin, by leave, introduced a bill to render

the receipts of the Comptroller of the State valid in certain cases ; read first time.

Rule suspended, bill read second time and ordered to be engrossed.

Rule further suspended, bill read third time and passed.

On motion of Mr. Britton, a bill for the relief of Wm. H. Jones, was taken up, read and passed to a third reading.

Rule suspended, bill read a third time and passed.

On motion of Mr. Fall, a bill for the relief of Lewis David was taken up, read ordered to be engrossed.

Rule suspended, bill read a third time and passed.

Mr. Guinn made the following report :

The committee on Claims and Accounts, to whom was referred the House bill for the relief of Alexander Patrick, have considered it, and find the facts to be : Some time in 1840 he located some league and labor certificates, and paid Government dues to the amount of \$480 40, and the Traveling Board rejected the certificates. He asks the State of Texas to refund to him the money. The House bill proposes to pay him the sum of \$200. The committee do not understand how the House reported and passed the bill for \$200, and need the whole amount, if it is right to pay any. The committee have instructed me to report the bill back to the Senate for its consideration, but have instructed me to say in this report that they think the passage of the bill of doubtful policy, but this is for the Senate to decide.

Mr. Wigfall made the following report :

The joint committee of the two Houses, to which was referred the Governor's message on Kansas affairs, have fully considered the same, and a majority of the committee leave to report, that the message contains so full and fair a statement of the facts, and such conclusive and unanswerable arguments as to the true position and duty of the South, that they deem it unnecessary to add anything thereto, and they therefore submit the accompanying joint resolutions responsive to the message, and recommend the passage of the same.

LOUIS T. WIGFALL,

Chairman on the part of the Senate.

H. P. BEE,

Chairman on the part of the House.

JOINT RESOLUTIONS

In response to the Governor's Message on Kansas Affairs.

WHEREAS, There exists and has existed a violent determination on the part of a portion of the inhabitants of the Territory of Kansas, to exclude, by force, the citizens of the slaveholding States from a just, equal and peaceful participation in the use and enjoyment of the common property and territory of the members of the confederacy; and Whereas, this determination—owing to the state of political feeling in the Northern States of the confederacy, operating upon the Federal Government—may become effectual, and the exclusion perpetual: therefore

1. *Be it Resolved by the Legislature of the State of Texas,* That the Governor of this State is hereby authorized to appoint seven delegates to meet delegates appointed by the other Southern States in convention, whenever the Executives of a majority of the slaveholding States shall express the opinion that such convention is necessary to preserve the equal rights of such States in the Union; and that the sum of ten thousand dollars, or so much thereof as is necessary, be and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, to pay the mileage and *per diem* of such delegates, which shall be paid at the rate paid to members of the United States Congress, according to the law in force in the year 1854.

2. That should an exigency arise, in the opinion of the Governor, in which it is necessary for the State of Texas to act alone, or by a convention representing the sovereignty of the State, he is hereby requested to call a special session of the Legislature, to provide for such State convention.

3. That the Governor is requested to transmit copies of these resolutions to the Executive of each of the slaveholding States, and to our members of Congress.

On motion of Mr. Paschal, the joint resolution was taken up and made the special order for this evening at 7 o'clock.

A message was received from the House informing the Senate that the House had adopted the report of the committee of Free Conference, on a bill supplemental to and amendatory of an act to adopt and establish a penal code for the State of Texas, approved August 28th, 1856.

And also that the House had passed the following bills originating in the House, viz:

A bill to authorize the County Court of Shelby County to levy and collect a special tax.

A bill to authorize the County Court of Webb county to levy a special tax; and

A bill authorizing James H. Matthews to construct a dam across the Colorado river.

On motion of Mr. Russell, the Senate adjourned until 7 o'clock, P. M.

7 O'CLOCK, P. M.

The Senate met—roll called, quorum present.

Mr. Russell, Chairman of the committee on Engrossed Bills, reported—

A bill to render the receipts of the Comptroller of the State valid in certain cases—correctly engrossed.

A message was received from the House informing the Senate that the House had passed—

A bill to establish the University of Texas; and

A bill to render the receipts of the Comptroller of the State valid, in certain cases—originating in the Senate, and the following bills originating in the House, viz:

A bill to amend the fifteenth section of an act to organize the District Courts, and to define their powers and jurisdiction. approved May 11th, 1846.

A bill to authorize the county court of Gonzales county to levy an additional tax for the purpose of completing a courthouse.

A bill to provide for making legal and valid the transcripts of records of surveys and maps taken from Cook and Denton Land Districts, and now included in Young county Land District,

A bill to require the Commissioner of the General Land Office to make out transcripts of field notes of surveys heretofore made in Milam and Bexar Land Districts, which have been returned to his office, and which surveys are now included in Young Land District, together with sketch maps of such surveys: and

A joint resolution proposing an amendment to the State constitution.

Also, a bill originating in the Senate, to provide for a geo-

logical and agricultural survey of the State with amendments.

The joint resolution in response to the Governor's message on Kansas affairs, being the special order for this, was read.

Mr. Paschal offered the following as a substitute :

WHEREAS, There exists a determined opposition to the admission of Kansas into the Union, because of the slavery clause of the constitution of that State ; and whereas, the refusal on the part of Congress to admit any State into the Union, because the people have engrafted on their constitution the principle of slavery, or no slavery, would be a violation of the principle of non-intervention, a wanton aggression upon the rights of the sovereign States, and particularly upon the rights of the Southern slaveholding States ; therefore,

1st. *Be it Resolved by the Legislature of the State of Texas,* That the refusal of Congress to admit Kansas into the Union, because of the slavery clause in her constitution, would be regarded by Texas as a wanton aggression upon the rights of the slaveholding States ; and Texas here pledges herself to co-operate with her sister States of the South in the adoption of such measures as may be calculated to arrest this mad spirit of sectional violence and fanaticism, and to secure to each State equal rights and equal justice.

2d. That the Governor be and he is hereby requested to forward a copy of the foregoing resolution to each of our Senators and Representatives in Congress. Rejected.

On motion of Mr. Trockmorton, the joint resolution was made the special order for to-morrow night at 7 o'clock ; and

The Senate adjourned until to-morrow morning at 10 o'clock.

TUESDAY, February 9th, 1858.

The Senate met pursuant to adjournment—Prayer by the Chaplain—roll called, quorum present.

The Journal of yesterday was read and adopted.

Mr. Stockdale made the following report :

The committee on the Judiciary have considered the substitute of the House for the Senate bill entitled, a bill supplemental to and amendatory of an act to establish a Code of Criminal Procedure, approved, August 26, 1856, together